IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Crl.MC.No. 1975 of 2007()

CMP.1014/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER: PETITIONER;

ARUN, S/O.SAJAN, S.R.NIVAS,
THACHOOR KUNNU, AVANAVANCHERRY, ATTINGAL.

BY ADV. SRI.M.DINESH

RESPONDENTS: COUNTER-PETITIONER:

THE STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1975 of 2007

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Dated this the 20th day of June, 2007

O R D E R

The grievance of the petitioner is that the learned Magistrate has rejected his application for release of the vehicle. The vehicle was admittedly seized by the police. The allegation is that the vehicle was used for illicit transportation of river sand contrary to the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. The petitioner had not applied befor the learned Magistrate for release of the vehicle. The seizure has not been reported to the court. It is said that the vehicle had been handed over to the District Collector for appropriate action under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act and Rules. The petitioner's application for release of the vehicle was rejected by the learned Magistrate taking note of the fact that it is one filed under Section 451 Cr.P.C. The precise section shown is not the crucial question. It is evident that the seizure had been effected and the seizure had to be reported to the learned Magistrate. The petitioner had applied for release of the vehicle also. The inaccuracy in the section shown could not loom large in these circumstances.

2. The learned counsel for the petitioner submits that the petitioner is now willing to deposit the amount of Rs.30,000/- claimed by the District Collector under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act and Rules, without prejudice to his right to challenge such order. The learned Magistrate may be directed to release the vehicle to the petitioner, subject to appropriate terms and conditions, it is prayed.

3. It is the grievance of the petitioner that he is not getting justice from the District Collector and if a direction were issued to the District Collector it would involve unnecessary further complications. I am satisfied that appropriate direction for release can be issued.

4. This Crl.M.C. is accordingly allowed. The vehicle i.e. Mini Lorry KL 4B 2432 shall be released to the petitioner forthwith by the learned Magistrate on the following terms and conditions.

(1) The petitioner shall deposit an amount of Rs.30,000/- before the District Collector as demanded by him and produce the receipt before the learned Magistrate.

(2) The petitioner shall execute a bond for an amount of Rs. 1 Lakh with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

5. Hand over the order today itself.

(R. BASANT)
Judge

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